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Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime
Third session
Vienna, 28 April-3 May 1999

Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on its second session, held in Vienna from 8 to 12 March 1999

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I. Introduction

1. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime was established by the General Assembly in its resolution 53/111 of 9 December 1998. In its resolution 53/114 of 9 December 1998, the Assembly called upon the Ad Hoc Committee to devote attention to the drafting of the main text of the Convention, as well as of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea.

II. Organization of the session

A. Opening of the session

2. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime held its second session in Vienna from 8 to 12 March 1999. The Ad Hoc Committee held 10 meetings.

3. At its first session, held in Vienna from 19 to 29 January 1999, the Ad Hoc Committee had decided to devote attention at its second session to the drafting of articles 1-3 of the Convention and to carry out a first reading of the additional international legal instrument on trafficking in women and children.

4. The second session of the Ad Hoc Committee was opened by its Chairman, who stressed the importance of maintaining the constructive spirit of negotiation that had been demonstrated at the first session. The Chairman also referred to a symposium on the draft Convention, organized by the Italian Senate and the Office for Drug Control and Crime Prevention of the Secretariat, held in Rome on 26 and 27 February 1999. The Chairman noted that the symposium had been attended by a number of government ministers from various regions and had afforded an opportunity to reiterate the political commitment of States to the draft Convention and to the conclusion of the negotiating process by the year 2000.

5. The representative of Japan announced that his Government had earmarked a voluntary contribution to the United Nations Crime Prevention and Criminal Justice Fund, amounting to $200,000, in order to facilitate the drafting of the Convention. The representative of Japan stated that his Government would consult with the Secretariat regarding the appropriate use of its contribution and expressed the hope that other Governments would also consider making similar voluntary contributions. The Chairman and the representatives of many States expressed their appreciation to the Government of Japan for its generosity.

6. At the first session of the Ad Hoc Committee, several delegations had expressed concern about the accuracy of the terms used in the translation of documents into some of the official languages and had recommended that the Secretariat undertake the compilation of a glossary of terms. At the second session, the Secretariat announced that the compilation of the glossary was under way, with the support of the Translation Service. The Secretariat intended to distribute a first draft of the glossary to the Ad Hoc Committee at its third session. States could then review it and submit their input to the Secretariat with a view to finalizing the glossary by the fourth session. The glossary would ultimately be included in the official records of the Ad Hoc Committee.

B. Attendance

7. The second session of the Ad Hoc Committee was attended by representatives of 95 States. Also attending the second session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations. A list of participants is contained in annex I to the present report.

C. Adoption of the agenda and organization of work

8. At its 19th meeting, on 8 March 1999, the Ad Hoc Committee adopted the following agenda for its second session:

1. Opening of the second session of the Ad Hoc Committee.
2. Adoption of the agenda and organization of work.

3. Consideration of the draft United Nations Convention against Transnational Organized Crime, with particular emphasis on articles 1-3.

4. Consideration of the additional international legal instrument against trafficking in women and children.

5. Adoption of the report of the Ad Hoc Committee on its second session.

D. Documentation

9. At its second session, the Ad Hoc Committee had before it, in addition to the documents prepared by the Secretariat, documents containing proposals and contributions submitted by the Governments of Argentina, Australia, Austria, Canada, Colombia, Cuba, Japan, Kuwait, Mexico, Poland, the Russian Federation, Singapore, the United Arab Emirates, the United States of America and Uruguay, and by the Council of the European Union. The list of documents is contained in annex II.

III. Discussion on the draft Convention

10. The Ad Hoc Committee based its work on a document containing the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.1) and on proposals and contributions submitted by Governments (A/AC.254/5/Add.3 and 4). The Chairman noted that the revised text contained in document A/AC.254/4/Rev.1 had been the result of discussions and consultations held during the first session.

11. The Ad Hoc Committee concluded its discussion on article 1. The agreed text was included in the new version of the draft Convention.*

12. In discussing article 2, the Ad Hoc Committee agreed that elements from paragraph 2 of the previous version could be useful to it in its consideration of other provisions, such as those pertaining to mutual legal assistance. Paragraph 2 of article 2 of the previous version reads as follows:

"[2. Among the circumstances that may be taken into account in deciding whether there are reasonable grounds to believe that a criminal organization is involved are the following:

"(a) The nature of the offence;

"(b) The transnational character of the offence;

"(c) Whether money-laundering is involved; and

"(d) Whether the offence required significant planning or means for its commission.]"

13. The Chairman proposed that the list of offences included in paragraph 3 of article 2 be removed from the draft text of the Convention and that, as a compromise solution, a list of offences, which could be either indicative or exhaustive, such as the list originally contained in paragraph 3 of article 2, could be included either in an annex to the Convention or in the *travaux préparatoires*. Those proposals were accepted by the Ad Hoc Committee. The list from paragraph 3 of article 2 is contained in an attachment to the revised version of the draft Convention.

14. The above list would need to be supplemented with proposals from States. The Chairman called upon all interested States to consult with each other in order to reach agreement on the contents of the list. A list was informally circulated by some delegations at the second session and is included in the attachment to the revised version of the draft Convention.

15. Some delegations expressed their preference for including the list in an annex to the Convention. Others expressed their preference for no list at all.

16. The Ad Hoc Committee discussed articles 2 *bis* and 3. The comments and proposals made during the second session are reflected in the revised version of the draft Convention.

17. The Ad Hoc Committee also completed a first reading of articles 24 to 30 of the draft Convention. The comments and proposals made during the second session are reflected in the revised text of the draft Convention.

18. The Ad Hoc Committee requested the Secretariat to carry out an analytical study on provisions of national laws relevant to the Convention concerning offences punishable by deprivation of liberty, with an indication of the number of years of imprisonment. The study should be based on information to be solicited from Member States. Member

* To be issued subsequently as document A/AC.254/4/Rev.2.

States would also be asked to indicate whether their legislation qualified offences as serious and, if so, what criteria were used and which crimes were considered serious. Member States should submit the information before 30 April 1999 with a view to the study being completed and made available to the Ad Hoc Committee at its fourth session.

IV. Discussion on the additional international legal instrument on trafficking in women and children

19. The delegate of Argentina introduced amendments to the revised draft Protocol to Prevent, Suppress and Punish Trafficking in Women and Children, supplementary to the United Nations Convention against Transnational Organized Crime (A/AC.254/L.17).

20. The Ad Hoc Committee based its discussion on a document containing the revised draft Protocol to Prevent, Suppress and Punish Trafficking in Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (A/AC.254/4/Add.3/Rev.1). That text was a proposal submitted by Argentina and the United States of America pursuant to the commitment those States had made at the first session of the Ad Hoc Committee. The Ad Hoc Committee carried out a first reading of articles 1 and 2 of the draft Protocol. The comments and proposals made during the second session are reflected in the revised text of the draft Protocol.*

21. The observers for the International Labour Organization and two non-governmental organizations made statements.

22. During the first reading of the draft Protocol, there was discussion on whether the Protocol would address trafficking in women and children or trafficking in persons. The Secretariat was requested to clarify the question of whether, by considering trafficking in persons, the Ad Hoc Committee would be departing from the mandate given to it by the General Assembly and, if that were the case, whether it would be competent to do so. The Secretariat undertook to explore the matter and to inform the Ad Hoc Committee of its findings.

V. Adoption of the report of the Ad Hoc Committee on its second session

23. At its 28th meeting, on 12 March 1999, the Ad Hoc Committee adopted the report on its second session (A/AC.254/L.18).

24. At the same meeting, the Ad Hoc Committee approved the provisional agenda and proposed organization of work for its third session, to be held in Vienna from 28 April to 3 May 1999 (A/AC.254/L.18/Add.1).** It was also decided that at its third session it would devote one day to the consideration of the international legal instrument addressing illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

* To be issued subsequently as document A/AC.254/4/Add.3/Rev.2.

** To be issued subsequently as document A/AC.254/12.

Annex I

List of participants

States

Afghanistan	Farid A. Amin
Algeria	Mokhtar Reguieg, Faouzia Benmansour, Salah Francis El-Hamdi
Angola	José Leitão Neves Bravo Da Costa
Argentina	Eugenio M. Curia, Ana Luisa Wirth de Schwind, Gustavo de Paoli, Daniel E. Amigo, Eduardo Bertoni
Armenia	Ashot Kocharian
Australia	Steven Marshall, Peter Scott, Helen Stylianou
Austria	Irene Freudenschuss-Reichl, Gregor Schusterschitz, Andrea Sandhacker, Ulrike Kathrein, Wolfgang Pekel, Karl Lesjak, Hans Haller
Azerbaijan	Vaqif Sadykhov, Fuad Ismayilov
Belarus	Valyantsin Fisenka, Igor Shaladonau
Belgium	Michel Adam, Peter Martin, J. S. Jamart, Gérard Dive, Wouter Boucique, W. De Meyer
Bolivia	Jaime Niño de Guzmán, María Lourdes Espinoza Patiño
Brazil	Oswaldo E. B. Portella, José Jorge Alcazar Almeida
Bulgaria	Ivan Naydenov, Traiko Spasov
Burkina Faso	Ousmane Traore
Burundi	Salvator Doyidoyi
Canada	Keith Morrill, Alan Morgan, Kim Prost
Chile	Osvaldo Puccio Huidobro, Gustavo Villalobos, Gloria Navarrete-Heckmatt
China	Xue Hanqin, Liu Yinghai, Diao Mingsheng, Zhai Jinrong, Bai Ping, Gao Xuwen, Wu Haiwen
Colombia	Carlos Holmes Trujillo García, Farid Samir Benavides, Enrique Celis Duran, Carlos Rodríguez Bocanegra
Costa Rica	Stella Aviram Newman
Côte d'Ivoire	Mamadou Kone
Croatia	Mario Nobilo, Ranko Vilović, Zeljko Horvatić, Zoran Nekić, Marijana Kujundžić
Cuba	Luis García Peraza, Aurora Gramatges, Eliseo Zamora Hernández

Czech Republic	Tomáš Buril, Jan Kohout
Denmark	Gitte Hundahl, Nicolai Jung, Michael Boolsen, Carsten Krogh
Ecuador	Patricio Palacios, Juan F. Holguín
Egypt	Mostafa Elfeki, Iskandar Ghattas, Hisham Ahmed Sorour
Finland	Tom Grönberg, Jaakko Halttunen, Matti Joutsen, Reijo Pöyhönen, Pia Rantala
France	Bérèngère Quincy, Philippe Delacroix, Laurent Paillard, Michel Quille, Bruno Savoye, Anne-Sylvie Delouvrier, Joël Sollier, Anne Delahaie, Jean-Louis Verisson, Patrick Deunet, Catherine Thony
Gabon	Yolande Bike
Georgia	Levan Mikeladze, Irakli Dugashvili, Zurab Chapidze
Germany	Karl Borchard, Michael Grotz, Hans-Peter Plischka, Marco Düerkop, Albrecht Volkwein
Greece	Ioannis Angelis, Konstantinos Piperigos, Constantinos Matzoukas
Holy See	Mario Zenari, Augustin Vaz Guerrero, Raffaella Manoni
Hungary	Tibor Tóth, György Eiselt, Sándor Virág, Zoltán Márki, Klára Breuer, Attila Zsigmond, Andrea Igazi
India	Kamal Kumar, Jayant Umranikar, P. C. Rastogi, S. C. Mathur, P. K. Choudhary
Indonesia	Sapartini S. Kuntjoro Jakti, Sadewo Joedo, Diar Nurbintoro, Larso Simbolon
Iran (Islamic Republic of)	Amir Hossein Zamaninia, Saeid Faryabi, Bahram Darvish Khadem
Ireland	Tony McDermottroe, Brian John Lucas
Italy	Vincenzo Manno, Renato Castellani, Gioacchino Polimeni, Massimo Curcio, Giusto Sciacchitano, Francesca Marcelli, Ennio Di Francesco, Corrado Carrubba, Alfredo Nunzi
Japan	Kiyoshi Koinuma, Mamoru Miura, Keisuke Senta, Kei Umebayashi, Katsunori Imai, Tsuyoshi Endo, Junya Osamura, Toshiaki Takahashi, Nobuhiro Watanabe, Kengo Yoshihara
Jordan	Mazen Armouti, Leena Al-Hadid
Kazakhstan	A. Akhmetov
Kuwait	Faisal Al-Ghais, Hamed Saleh Al-Othman, Zakaria Al-Ansari, Jasern Al-Budaiwi
Kyrgyzstan	Kamil Baialinov, Ainura Davletova
Lebanon	Samir Hobeica, Michel Katra
Libyan Arab Jamahiriya	Said Abulaati, Faisal Elshaeri
Luxembourg	Georges Santer, Jeannine Dennewald, Pierre Franck
Madagascar	Maurice Randrianame

Malaysia	Melanie Leong Sook Lei, Ahmad Anwar Adnan
Mexico	Roberta Lajous Vargas, Luís Alfonso de Alba, Gilberto Landeros Briseño, José Humberto Castro Villalobos, Sergio Olivar Moctezuma, Victor Arriaga Weiss
Morocco	Abderrahim Benmoussa, Abdellatif Saadi, M. Loualladi
Netherlands	Hans Förster, Marjorie Bonn, Jan Peek, Michael Bierkens
Namibia	Simon M. Maruta
New Zealand	Lucy Duncan
Nicaragua	Suyapa Padilla Tercero
Nigeria	Albert Azubogu Anopuechi, Abel Adelekun Ayoko, L. P. Egopija
Norway	Hilde Indreberg, Gjermund Saether, Ola Rambjør Heide
Oman	Said Nasser Al-Siyabi, Ahmed Said Al-Hasani, Yousuf A. H. Al-Jabry
Pakistan	Shaukat Umer, Ross Masud, Iffat Imran Gardezi
Panama	Jorge Enrique Halphen Pérez, Mirna P. de Perez Venero
Paraguay	María Cristina Acosta Alvarez, Ana Isabel Rodríguez
Peru	Gilbert Chauny de Porturas Hoyle, Ruth Saif de Preperier, Manuel Alvarez Espinal
Philippines	Jose Zaide, Romeo L. Cairme, Victoria S. Bataclan, Anselmo S. Avenido Jr., Miguel G. Coronel, Mary Ann A. Padua, Nelia Sancho
Poland	Janusz Rydzkowski, Mariusz Skowroński, Zbigniew Wrona, Zdzisław Galicki, Michał Płachta, Beata Ziorkiewicz
Portugal	Alvaro José da Costa Mendonça e Moura, Euclides Dâmaso Simões, Maria do Carmo Dacosta, Teresa Alves Martins, Cristina Pucarinho
Qatar	Ali Essa A. Al-Khulaifi, Salem Sager S. Al-Meraikhi
Republic of Korea	Chung Dal-ho, Yuh Jae-hong, Chae Jung-sug, Hwamg In-gyu, Che Dong-hwan, Lee Chul
Romania	Alina Dorobant, Adrian Vierita
Russian Federation	Sergei N. Karev, Ludmila N. Kurovskaya, Igor L. Smirnov, Victor S. Dolmatov, Valentine I. Mikhailov, Anatoly V. Grinenko, Igor G. Lukyanov, Anatoli G. Radatchinski, Alexander V. Zinevich
Rwanda	Johnston Busingye
Saudi Arabia	Omar Mohammed Kurdi, A. M. Al-Ghamdi, M. S. Al-Dijan, A. A. Al-Yousef, A. H. Al-Shamrani, F. N. Al-Menna, M. N. Al-Aula, M. M. Al-Saiari, S. G. Alrachach
Senegal	Mamadou Lamine Fofana, Amaolou Diallo
Sierra Leone	Umaru Bundu Wurie, W. Breitenthaler

Singapore	Hian Sun Ong, Danielle Ping Lin Yeow
Slovakia	Alojz Némethy, Zuzana Chudá, Denisa Ivanová, Metod Špaček
Slovenia	Robert Basej
South Africa	N. J. Mxakato-Diseko, P. C. Jacobs, G. Buys, Peter Gastrow, N. P. Notutela
Spain	Antonio Ortíz García, Marcos Vega, Valentín Dueñas, Francisco Javier Aparicio, Alvaro Trejo, Marceliano Gutiérrez, Juan González, Antonio Yébenes, Víctor Sancha
Sudan	Abubakr Salih Nur, Kureng Akuei Pac
Sweden	Örjan Landelius, Per Hedvall, Barbro Jönsson, Erika Hemtke
Switzerland	Peter Müller, Urs Breiter, Anita Marfurt, Olivier Thormann
Syrian Arab Republic	Riad Siage, Nadra Sayaf
Thailand	Sorayouth Prompoj, Sukho Piromnam, Wanchai Roujanavong, Morakot Sriswasdi
The former Yugoslav Republic of Macedonia	Ognen Maleski, Margarita Trajkova, Ruzica Zanteva Angelova
Tunisia	Abdelaziz Chaabane, Nabil Ammar, Emma Lazoughli, Abdelhamid Ben Cheikh, Abderrazak Mansour
Turkey	Yasar Yakis, Muzaffer Erkan, A. Asim Arar, M. Aydin Özbay, Nilüfer Erdem Kaygisiz
Ukraine	Mykola P. Makarevych, Yevgen Strekalov, Rostyslav Tronenko, Serhyi Sokolov, Vasyl Gubko, Viktoria Kuvshynnykova
United Arab Emirates	Abdul Rahim Yousef Al Awadi, Mohammed Mahmoud Al Kamali, Ahmed Al Dosari, Ayad Al-Yasiri
United Kingdom of Great Britain and Northern Ireland	Godfrey Stadlen, John Freeman, Geoffrey Cole, David Lusher, Ruth Goodwin, Neil Clowes
United States of America	Rob Boone, Laura Kennedy, Kenneth Harris, Mary Helen Carlson, James Puleo, Thomas Burrows, Herbert Traub
Uruguay	Jorge Tálice, Fructuoso Pittaluga-Fonseca, Elena Fajardo
Venezuela	Demetrio Boersner, Kidder Salazar
Yemen	Faisal Fadhel M. Hassan, Nageeb Ismail Ali
Zimbabwe	Phelekezela Mphoko

Entities represented by observers

Palestine

United Nations Secretariat units

Office of the United Nations High Commissioner for Human Rights, Office for Drug Control and Crime Prevention

United Nations bodies and affiliated institutes

Office of the United Nations High Commissioner for Refugees, International Institute of Higher Studies in Criminal Sciences, Raoul Wallenberg Institute of Human Rights and Humanitarian Law

Specialized agencies and other organizations of the United Nations system

International Labour Organization, United Nations Educational, Scientific and Cultural Organization

Other intergovernmental organizations

Commonwealth Secretariat, Council of Arab Ministers of the Interior, Council of the European Union, Customs Cooperation Council, European Commission, Europol, International Centre for Migration Policy Development, International Criminal Police Organization, International Organization for Migration, League of Arab States, Secretariat of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, Sovereign Military Order of Malta

Non-governmental organizations

General consultative status:

International Council of Women, Zonta International

Special consultative status:

Amnesty International, Asia Crime Prevention Foundation, Association for the Study of the World Refugee Problem, Baha'i International Community, Caritas Internationalis, Coalition against Trafficking in Women, European Women's Lobby, International Association of Judges, International Council on Alcohol and Addictions, International Federation of University Women, International Human Rights Law Group, International Institute of Humanitarian Law, Institute of Inter-Balkan Relations, International Real Estate Federation, Italian Centre of Solidarity, National Council of German Women's Organizations—Federal Union of Women's Organizations and Women's Groups of German Associations, E. V., Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs) (International Movement of Catholic Students), World Society of Victimology

Roster:

International Movement against All Forms of Discrimination and Racism, Japan Federation of Bar Associations

Annex II

List of documents before the Ad Hoc Committee at its second session

Symbol	*Title or description*
A/AC.254/4/Rev.1	Revised draft United Nations Convention against Transnational Organized Crime
A/AC.254/4/Add.3/Rev.1	Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime: proposal submitted by Argentina and the United States of America
A/AC.254/5/Add.3 and 4	Proposals and contributions received from Governments
A/AC.254/9	Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on its first session, held in Vienna from 19 to 29 January 1999
A/AC.254/10	Annotated provisional agenda and proposed organization of work
A/AC.254/L.12	Kuwait: amendments to the draft United Nations Convention against Transnational Organized Crime
A/AC.254/L.13	Australia: amendment to the draft United Nations Convention against Transnational Organized Crime
A/AC.254/L.14	Russian Federation: amendment to the draft United Nations Convention against Transnational Organized Crime
A/AC.254/L.15	Colombia: amendment to the draft United Nations Convention against Transnational Organized Crime
A/AC.254/L.16	Uruguay: amendments to the draft United Nations Convention against Transnational Organized Crime
A/AC.254/L.17	Argentina: amendments to the revised draft Protocol to Prevent, Suppress and Punish Trafficking in Women and Children, supplementary to the United Nations Convention against Transnational Organized Crime
A/AC.254/L.18	Draft report
A/AC.254/L.18/Add.1	Draft provisional agenda and proposed organization of work for the third session of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, to be held in Vienna from 28 April to 3 May 1999
A/AC.254/L.18/Add.2	Revised draft United Nations Convention against Transnational Organized Crime
A/AC.254/L.19	United Arab Emirates: amendments to the draft United Nations Convention against Transnational Organized Crime

Symbol	*Title or description*
A/AC.254/CRP.8	Statement made on 13 January 1999 by the delegation of Cuba at the first session of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime
A/AC.254/CRP.9	Comments by Singapore on article 2
A/AC.254/CRP.10	Text of the Joint Action of 24 February 1997 submitted by the Council of the European Union